

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

RAFAEL CARRILLO CHAGOLLA,

Plaintiff,

Civil No. 05-1468-TC

v.

FINDINGS AND
RECOMMENDATION

STAN MAZUR-HART, and
MARVIN FICKLES,

Defendants.

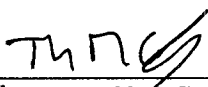
COFFIN, Magistrate Judge.

Plaintiff moves to proceed *in forma pauperis* (#4). The application indicates that plaintiff has \$952.00 in a inmate trust account. Based upon this certification, the court concludes that plaintiff is capable of paying the \$250 filing fee applicable to proceedings under 42 U.S.C. § 1983 without undue hardship. Accordingly, plaintiff's application to proceed *in forma pauperis* (#4) should be DENIED.

By Order (#3) entered October 5, 2005, plaintiff was allowed 30 days to file an amended complaint curing the deficiencies set forth in the court's order. Plaintiff was further advised that failure to file an amended complaint within 30 days would result in the dismissal of this action for failure to prosecute.

Plaintiff has not filed an amended complaint or sought an extension of time to do so. Therefore, plaintiff's complaint should be dismissed for failure to state a claim and for failure to prosecute. This action should be dismissed.

DATED this 14th day of November, 2005.



Thomas M. Coffin
United States Magistrate Judge